

AN
ANSWER TO THE
PROFESSION AND
DECLARATION.

MADE BY JAMES MARQUES OF
HAMMILTON, HIS MAJESTIES
HIGH COMMISSIONER,

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in *December*.



His ancient Kingdome, although not the most flourishing in the glory and wealth of the World, hath been so largely recompensed with the riches of the Gospel, in the reformation and purity of Religion from the abundant mercy and free grace of our GOD towards us, that all the reformed Kirks about us, did admire our happinesse. And King *James* himself of happy memorie, gloried that he had the honour to be born, and to be a King in the best reformed Kirk in the world. Those blessings of pure doctrine, Christian government, and right frame of discipline we long enjoyed, as they were prescribed by GOD's own word; who as the great Master of his family, left most perfect directions for his own *anomie*, and the whole officers of his house: till the

Prelats, without calling from God, or warrand from his word, did ingire themselves by their craft and violence upon the house of God. Their craftie entrie at the beginning was disguised under many cautions and caveats, which they never observed, and have professed since, they never intended to observe, though they were sworn thereto. Their wayes of promoting their course were subtile and cunning: as in abstracting the registers of the Kirk, wherein their government was condemned; in impeding yearly generall Assemblies, whereunto they were subject and comptable; and generally in enfeebling the power of the Kirk, and establishing the same totally in their own persons: whereby in a short time they made such progresse, that being invested in the prime places of estate, and arming themselves with the boundlesse power of the high Commission, they made themselves lords over Gods inheritance: and out of their greatnesse, without any shew of order or Councell, without advise of the Kirk; but at their own pleasure enterprised to alter and subvert the former doctrine and discipline of this Kirk, & introduce many fearfull corruptions and innovations, to the utter overthrow of religion; and to make us no lesse miserable then we were happy before. These pressing grievances did at length awake the good Subjects to petition his Majestie and his Councell for redresse. And albeit at last, after many reiterated supplications and long attendance, his Majestie hath been graciously pleased to grant a free generall Assembly, yet in the beginning by the credit of the *Prelates*, and their commodity of accesse, his Royall care was long stoped to our cries, and wee discharged under the paine of treason to

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meet for making any more remonstrances of our just desires.

In this distresse none other mean, nor hope of redresse being left, wee had our recourse to GOD, who hath the hearts of all Kings and Rulers in his hand; and therefore taking to our heart, that GOD had justly punished us, for the breach of that nationall Covenant, made with GOD, in *Anno 1580.* We thought fit to reconcile our selves to him again, by renewing the same Covenant. And so, in obedience to his divine Commandement, conforme to the practise of the godly in former times, and according to the laudable example of our religious Progenitours, warranted by acts of Councel, we again renewed our confession of Faith of this Kirk and Kingdome, as a reall testimonie of our fidelitie to GOD, in bearing witnessse to the truth of that Religion whereunto we were sworn to adhere in Doctrine and Discipline, of our loyaltie to our Sovereigne, and mutuall union among our selves in that cause. Which Confession, with a sensible demonstration of GODS blessing from heaven, was solemnly sworn and subscribed, by persons of all ranks, throughout this Kirk and Kingdome, with a necessar explanation and application for excluding the innovations and corruptions introduced in the Religion, and government of this Kirk, since the year 1580. that so our oath to GOD might be clear for maintenance of the doctrine and discipline then professed and established, and according to the meaning of that time.

The happie effects of this our resolution and doing, have been wonderfull: And since that time GODS

powerfull hand in the conduct of this businesse hath evidently appeared. For after some time, upon the continuance of our groanes and supplications, our gracious Sovereigne was pleased to send into this Kingdome, The noble Lord IAMES Marques of *Hammiltoun*, &c. with commission to hear and redresse our heavie grievances: who after many voyages to his Majestie, and long conferences and treating with us, needlesse to be related in this place, did in end, by commandement from his Majestie, indit a free generall Assembly to be holden at *Glasgow* the twentie one of *November* last, and proclaimed a Parliament to be holden at *Edinburgh* the fifteenth of *May* nexto-come, for setling a perfect peace in this Kirk and Kingdome: And further to give full assurance to the subjects, that his Majestie did never intend to admit any change or alteration in the true religion, already established and professed in this Kingdome: And that all his good people might bee fully and clearly satisfied of the realitie of his royall intentions for the maintenance of the truth and integritie of the said Religion, his Majestie did injoyn and command all the Lords of his privie Councel, Senatours of the Colledge of Justice, and all other subjects whatsoever, to renew and subscribe the confession of Faith formerly subscribed by King IAMES of blessed memorie and his household in *Anno* 1580. and thereafter by persons of all ranks, in *Anno* 1581. by ordinance of the Councel, and acts of the generall Assembly, and again subscribed by all sorts of persons in *Anno* 1590. by a new ordinance of Councel, at the desire of the generall Assembly, with a
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band for maintenance of the true Religion, the Kings person, & each of other in that cause: as the proclamation of indiction, being dated at *Oatlands*, the 9. of September, published at the Mercat crosse of *Edinburgh*, the 22. of the said moneth, more fully propoerteth.

Upon the hearing of which Proclamation, These who were attending at *Edinburgh*, and expecting a gracious answer of our former desires, as out of bounden duety they did with all thankfulness acknowledge his Majesties gracious favour: So out of zeal to God and Religion, they did protest, that they who had by the late Covenant and Confession condescended more specially to the innovations and errors of the time, could not after so solemne a specification, returne to an implicit and more generall confession enjoyned, conforme to a mandat, apparantly discrepant from the genuine meaning of the confession, and wanting both explication & application, and did most humbly and earnestly desire the Lords of his Majesties counsell, that they would not, in regard of the former reasons, presse upon the subjects the subscription of this Covenant, but that they might be pleased to forebear their own subscribing of it, in respect of the inconveniences might result upon their subscribing thereof, in an ambiguous sense; but their Lordships not having subscribed that confession, containing our former explanation, and being required by his Majesties Commissioner, to subscribe the Confession, as it was drawn up, and presented to them, without our explanation, with a generall band for maintenance of the Religion in Doctrine and Discipline now presently profest, and of his Majesties person

person, least these words (*now presently*) repeated in this year 1638. should inferre any approbation of these innovations, introduced since the year 1580. whereof many did justly complaine, after deliberation for removing of this scruple and prejudice, and clearing of their own meaning; they caused make an act of counsell that their swearing and subscribing of the confession of Faith was according to the tennour and date the second of *March* 1580. according as it was then profest within this Kingdome: whereupon they rested satisfied, being confident that the generall Assembly then indicted, would remove any doubt and differ which might arise anent the meaning and interpretation of the confession of Faith, and clear what was profest in the year 1580. Yet some having subscribed that Covenant in different senses, others forbearing to subscribe the same, as some of the Lords of Session, till the Assembly should declare the genuine and true meaning of the Confession, upon whose interpretation, as of the only competent judge, they might acquiesce, and rest satisfied: which now after accuratetryall of the acts of generall Assemblies, and mature deliberation, is fully cleared, and explained in this last generall Assembly by Gods mercy, and his Majesties gracious favour of indiction, holden at *Glasgow*: as the act made thereupon doth propoort: whereby Episcopall government, mongst many other innovations is found upon undeniable evidences of truth and declared to be condemned and abjured in this Kirk, in *Anno* 1580. There is notwithstanding published in name of his Majesties Commissioner a declaration, tending to dissuade his Majesties

Majesties subjects from receiving the explanation of the confession made by this Assembly, and affirming that the confession subscribed by the Councel, doth no wayes exclude Episcopall government, nor any thing else established by laws standing in force, the time of the taking of the said oath, the ninth of *September* last; notwithstanding the foresaid act of Assembly, which as the decree of our mother Kirk ought to bee received and revered by all her children, and act of Councel, whereof the words are so cleare, as they cannot admit anie mentall reservation, which is acknowledged by such of the Councillers then present and subscribers, whose hearts *G O D* hath touched, to make the sense of their oath to *G O D*, preponder with them above all other worldly respects and fears.

THIS declaration containeth five arguments, with a bundle of acts of Parliament, quotted and drawn up by some persons, whom wee know not; but seen and approven by the Commisisoner: whereby his Grace indevouereth to evince his conclusion, that *Episcopall government was not abjured by the Councel, nor the Covenant 1580.* Which is so repugnant to the acts of the Kirk; The act of Councel, and all reason, that wee are confident, the same will make no impressiion in the judgement of any well affected Christian, as shall be evident by our following answers, which we offer to the readers consideration, after he hath first expended these generalls.

1. This declaration is only made by his Majesties Commisisoner, and not by the Lords of secret Councel, who should be fittest interpreters of their

Four generall considerations of the Declaration.

own act, and whose act should be the ample expression of their meaning, else acts of Council, by possibilitie of admitting the variable commentarie of intentions, will losse all force and vigour in themselves. And yet it is evident that the Councellers have not only actually sworne to maintain the Religion and Discipline established in *Anno 1580*. When Episcopacie was condemned; but likewise intended to doe so: because they have distinguished and opposed betweene the Religion presently professed, 1638 mentioned in the Proclamation, and the Religion professed in *Anno 1580*. mentioned in their act; and by that opposition of *now* and *then*, they reject the one, and swear the other: otherwise they needed no declaration: which notwithstanding accompanies their subscriptions, and is acknowledged by the Commissioner in the second line, to be an act explaining the Confession, for obedience whereof all those who have subscribed that Covenant, have done the same.

2. Albeit his Majesty did not conceive any difference between the Religion, Doctrine and Discipline now profest, from that which was in *Anno 1580*. (where with his Majestie can hardly be acquainted, without perusing the records of Assemblies) yet his Majesties reall intention was to maintaine the confession of Faith professed in *Anno 1580*. because his Royall disigne by that commandement was to maintain true Christian Religion in puritie (whereunto Episcopacie by this Kirk was ever judged and condemned as prejudiciall) and to remove the fears of his Majesties good Subjects, complaining of by-gone innovations, and apprehending greater changes; which ends
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are only obtained by subscription of the Confession as it was *Anno* 1580. And nowise by maintaining the Religion now presently profest; because the corruptions now presently received in this Kirk, are the grounds of our just complaints, as being contrary to the word of God, & for said confession in *Anno* 1580.

3. We must distinguish between oathes, tendered by the first framers of the Confession, the whole Kirk, who have power to interpret and explaine the same, and oathes required, to be renewed by the supreme Magistrat the Kings Majestie, who as *custos utriusque tabulae*, and a true Son of the Kirk, ought to receive the true meaning of the Kirk, and cause it to be received of those whom God hath subjected to him.

And we are confident that his Majestie, in his just and pious disposition, will never take away the benefit of that holy nationall oath, and confession of Faith subscribed by his Majesties Father of blessed memorie 1580. and now lately renewed again, and solemnly sworn by the Subjects of this Kingdome, upon the pretence of any intentions repugnant to the true sense of that confession: which even as it is subscribed by the Councill, doth never import that his Majestie was framing or administering any new confession or oath, but only injoyning to renew the old confession 1580 and therefore unquestionably should be taken in the true meaning of that time. Fourthly, if there were any reall opposition betwixt his Majesties Proclamation and the act of explanation made by his Majesties Commissioner and Councill, Yet the last must be observed and preferred before the first, because the first is his privat will, the second his publick,

lick, and judicall will. *Et posterior derogat priori, publica privata.* And albeit we do not now expresse that the Councell did subscribe the confession of Faith in obedience to a mandat, where there was any contrariety, repugnancie, or ambiguity betwixt the mandat and the Confession it self, which was commanded, yet the Councell making an act that they did subscribe it as it was professed 1580. and declaring publickly that this was their own meaning, both they and such of his Majesties liedges, who did subscribe in obedience of their charge, are oblidge to observe *rem juratam*, and the reall matter of the oath (more then the minde and mandat of the prescriber) especially seeing it is no new Confession, but the renewed Confession of the whole Kirk of Scotland; The meaning whereof cannot be declared nor interpret by any, but the whole Kirk of *Scotland* who now upon unanswerable reasons, have clearly found that Episcopall government, was then abolished and abjured: It followeth by good consequence, that the Councell did both virtually and verily swear, yea intend to swear the abjuration of Episcopacie, which is found by that confession 1580. & the discipline of the Kirk then established, to be a corrupt government in this Kirk, of human invention, wanting warrand from the word of God, tending to the overthrow of this Kirk: So that any declaration in the contrare hereof is *protestatio contraria facto*, and the reasons thereof cannot be forceable, to brangle the resolution of any judicious well affected Christian, if he will patiently read and ponder, without preoccupation, these following answers to the five reasons insert in that declaration:

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The first aleadged reason is this, that his Majestie could not command an oath absolutly unlawfull: but it is absolutly unlawfull to swear against any thing established by the laws of the Kirk and Kingdome, if the same be not repugnant to the word of God or repealed by posteriour laws.

*Answer
to the
first reason.*

To this we answer, First. The Kings Majestie by commanding his Subjects to renew the confession of Faith for maintaining the doctrine and discipline profest *in anno 1580.* hath commanded them to abjure whatsoever is found by the competent Iudge to be introduced since that time repugnant thereto, albeit by the corruption of times it were countenanced with some law interveening. Secondly, the Lords of Councill and Session and other Subjects have subscribed the confession of Faith as it was 1580. not only without any restriction of it to the present laws, but in a direct opposition to what is presently established by returning from the present corruptions in the profession, *tanquam termino a quo*, to the profession 1580. *tanquam terminum ad quem*: which a great part of Councillours and other Subjects have declared to be their meaning. Thirdly, Episcopacie is found by the Kirk of Scotland in many Assemblies to be an office unwarranted by the word of God, unlawfull and repugnant thereto: so that the abjuration thereof in this Kirk is lawfull and necessarie. Fourthly, Episcopacie was never restored by any Assembly of this Kirk, nor these Assemblies wherein it was condemned, repealed, without the which the same could not be established by a Parliament, whose power doth no more reach to the placing officers originally in the
Kirk,

Kirk, then the Kirks power to the making states men in the common-wealth. Fifthly, the laws which any wayes contribute to the introduction of Episcopacie, do only extend to civill priviledges, and were alwayes protested against by the Kirk, as contrarieto the nationall Covenant of this land. Sixthly, if any Assembly canbe pretended to countenance Episcopacie or other corruptions; it sufficeth to say that the same with all the acts thereof is declared to have been null and void *ab initio* for undeniable reasons as the act at more length propoerts. Seventhly, the breach of our nationall Covenant by introduction of corruptions thereby abolished, hath undoubtedly in high measure offended God: and therefore at the renovation of that Covenant again with God, we ought not only to abjure all these innovations, but hereafter should be carefull not to be relapse in our offence. Eighthly, in no Covenant Episcopacie is expressly or *specifice* abjured, before all Ecclesiasticall laws favouring the same was repealed, & declared null, but only virtually and generally, as being formerly abjured *in anno 1580.* And as the tryall hereof was referred to the Assembly, as the only Iudge competent, so now when the Assembly hath declared and found Presbyteriall government to have been approved, and Episcopall government condemned, abolished and abjured *in anno 1580.* and in lieu of perceiving that Episcopacie is of an Apostolick institution, have clearly seen that it is justly condemned in our Kirk, as the invention of man wanting warrand or fundament in the word of God, tending to the overthrow of this Kirk, Therefore albeit Episcopacie had been
 abjured

abjured expressly in the renovation of this Confession commanded by his Majestie, it was not unlawfull, but most necessary and incumbent to us all, who are tyed by that nationall Covenant against that unlawfull Hierarchicall government, albeit we had never renewed the same: But we are falsly calumniat to have condemned the name of a Bishop, even as it is used in Scripture, which the act of Assembly it self, sufficiently refutes, by allowing *S. Pauls* Bishops to-wit Pastours of a particular flock, and condemning only all other Bishops brought in without the warrand of Scripture.

The second reason in the Declaration is, that the oath for preserving the discipline and government of the Kirk, cannot oblige after the alteration and change of that discipline and government: and seeing the Discipline and government of the Kirk is not only alterable, but changed in this Kirk, we are not tyed by that oath, after the alteration.

Wherunto wee answer, first, that it is true, that policie and order in ceremonies is temporarie and may bee changed, as is meant in that article of the Confession cited in the declaration: But a Bishop or his office, or the government of Gods house cannot be called a ceremony, nay, they will be loath to be vilified by that appellation: but if it be a ceremony they are of no Apostolick constitution, as is mentioned in the first reason: so that if they bee lawfull governours in Gods house, warrantied by his word, they are not alterable: and so this second reason militates not for them, if their office be changeable, and accounted among alterable ceremonies: they are well exploded

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exploded from our Kirk, and may be so by that second reason of the declaration. 2. One cause of generall Councils is, for constituting a good order and policie in ceremonies: which is grounded upon the last verse of the 14. Chap. to the 1. *Corinth. willing that all things bee done decently and in order*, wherein the LORD giveth not power to institute new officers in his Kirk, but commandeth his own officers to exerce their functions by his commandements without indecencie, or confusion, in the variable circumstances thereof, to bee determined according to the present occasions of edification, 3. In the 15. Chap. of the same confession of Faith, all mens inventions in matters of Religion are condemned: And in the 19 Chap. Ecclesiasticall discipline uprightly ministred as GODS word prescribeth. *Matth. 18. 1. Cor. 9.* is set down as the third essentiall and unchangeable marke of the true Kirk of GOD: and so is not of that nature with temporarie, changeable ceremonies: though unwarrantably ranked with them in the declaration. 4. It is evident at our first reformation what policie was perpetuall, and what ceremonies, changeable, for in the first booke of Policie compylled that same year with the Confession, 9 head is expressed a two-fold policie of the Kirke: The one absolutely necessary in all Kirks, the other not necessary, but changeable; such as, what day of the week sermon should be, and the like: whereof they established no order, but permitted every particukir Kirk to appoint their own policie, as they thought most expedient for edification: if parity of reason will make Episcopacie of this nature, let all men judge. 5. Our
confession

confession speaketh of an order in ceremonies, which
 cannot bee appointed for all ages, as is before said.
 But when they speak of the office-bearers in the Kirk,
 they acknowledge according to the truth, that *Christ*
 himself appointed an ordinarie constant government
 of his Kirk by his four ordinar office-bearers, The *Pa-*
stor, Elder, Doctour, & Deacon, to administrat the same
 perpetually : as is set down in the first book of Disci-
 pline, and in the treatise before the *Psalmes*, which was
 drawn up at that same time, and allowed by the same
 persons. Likeas in the year of God, 1560. when that
 confession was made, & in the year 1567. when it was
 ratified, and by continuall acts of Assembly, and by
 the second book of Discipline: The government of
 Christs Kirk by these four ordinarie office-bearers, is
 set down as founded only upon the word of God, as
 constant, unchangeable, & perpetuall: and as that holy
 discipline without which Gods word cannot be pre-
 served ; so that the intruding of any other officer in
 Gods house was accounted an offence against the Lord
 of the house. 6. By our oath, wee are obliged to con-
 tinue in obedience of discipline as well as doctrine, be-
 cause they are both groundd on the word of God,
 without the warrand whereof, all traditions that are
 brought in are abjured, & the discipline of the Kirk of
Scotland is set down in the book of policy, as ground-
 ed on Godsword & commanded to continue to the
 worlds end, whereunto we have sworn, and cannot
 without perjury to God, gainsay it, likeas the Assem-
 bly ordaines the discipline of the Kirk to be subscri-
 bed as such, and the act of Parliament 1592 Ratifieth
 the discipline of the Kirk, as a priviledge granted by

GOD, whereinto the Kings prerogative cannot bee prejudiciall. 7. It carrieth no shew of argument or face of probabilitie, that the Kirk and reformers of Religion which condemneth all other ordinar officers in the Kirk, but these foure appointed by *Christ* did mean under the name of variable ceremonies, to comprehend and admit Episcopacy, which frequently they condemne, as an invention of man, without the warrant of Gods word, tending to the overthrow of the Kirk and puritie of Religion. 8. The *Prelats* themselves will not grant Episcopacie to bee reckoned in the orders of ceremonies, which cannot be unchangeably constitute for all ages, times, and places, but are temporall as devised by man; and so changeable, when they rather foster superstition then edifie the Kirk, but herein they will disclaime the benefit of this second reason, and undoubtedly affirme, that Episcopall government, not only may be, but should be, and was appointed for all ages, times, and places; & that it is not the devise of man temporall and changeable, but deriveth its extraction from divine Apostolick, at the least Ecclesiasticall, perpetuall and necessar institution, as is averred in the first reason: and so should ever be unchangeable. 9. This Kirk hath ever condemned all such as held the discipline, and policie thereof, to bee indifferent and changeable: & in particular in *An. 1581.* which is the year of the subscription of the confession of Faith, and book of policie, *Mr. Robert Montgomery* is accused and condemned for that doctrine. 10. In the Assembly 1596. upon the Kings Majesties proposition, and demand that it might bee lawfull for him to reason

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or move doubts, in any point of the externall policie, government, or discipline of the Kirk, which are not answered, *affirmative* or *negative* in the scripture. The Assembly concluded, that it might be lawfull for his Majestie, or his Commissioner, to propone any point to the generall Assembly in matters of externall government, alterable, according to the circumstances, provyding it bee done in right time and place, *Animo edificandi non tentandi*: But as for the essentiall discipline, in the book of Policie: The same Assembly desireth the Kings Majestie to declare before his Estates, that he never intended to preiudge the same. 11. Albeit it were granted that discipline were changeable, yet now seeing by the Kings Majesties own consent, we have sworn to maintaine the discipline of the Kirk of *Scotland*, as it was 1580. we are obliged strictly, *interposito iuramento*, to abide by that discipline *specificè*: at least till it be lawfully changed by the Kirk of *Scotland*, in her free generall Assembly, which can never bee presupposed: because *in rei veritate*, the Discipline, as well as the doctrine, is acknowledged and sworn to, as unchangeable, wherein we must continue all the dayes of our life: and defend the same according to our power, under the penaltie of procuring deservedly upon our selves, all the curses contained in Gods word. 12. The doctrine of the Kirk of *Scotland*, condemned Episcopall, and re-established Presbyteriall government perpetually: which we have acknowledged by joyning our selves in the assertorie part of our oath, unto the Kirk of *Scotland* in doctrine as well as in discipline, and in the promissorie part thereof by swear-

ing to continue in the obedience of the Discipline, as well as Doctrine: to show that Discipline as well as Doctrine, is not variable, nor so sworn to by us: but as an immutable law and constitution, which we are obliged to maintain perpetually.

*Answer
to the
third reason.*

The third reason is that we who subscribed the Covenant, acknowledged that Episcopacie was not abjured thereby, which is qualified by two instances. First that the Ministers in their answers to the *Queres of Aberdeine*, expressed themselves in that sense, holding these things for the present not to be abjured, but only to be referred to the tryall of a free generall Assembly. Next, that it is averred in our last reasons against the subscription urged by his Majestie, that this oath, requyred by his Majestie, doth oblige the takers of it, to mantaine *Perth* articles, and Episcopacie.

This needeth no answer if the preceding narration, and the whole passages of the businesse were considered and known; for in the application of our Covenant, we did not expressly & *specificc*, abjure Episcopacie, but only generally and virtually, by abjuring whatsoever was abjured in the Confession, 1580. which we found to be a strong band, lying upon us to bind us straitly to the obedience of the discipline then established: wherein because there had intervened some alterations, we permitted justly the tryall thereof to the Kirk, whether *Episcopacie Perth articles*, and other innovations were not condemned and abjured by the said oath, which now the Assembly after carefull search and examination of the records have clearly found. This is the true meaning and substance

substance of the answer made to the *Quæres of Aberdine*, and ought also to be the ingenuous meaning of the Councillours, who by their act declared they subscribed the Confession 1580. as it was then professed: which is consonant to our generall application, and which being now declared by their mother Kirk, they ought to reverence and obey, and not upon light and subtile pretences to neglect and contemne.

2. For the second instance: It is true that when the Councell was urged to subscribe the Confession, 1580. conforme to the warrands bearing (that they should maintaine the Religion now presently profest) we justly feared, that the same being subscribed in 1638. would comprehend *Episcopacie*, *Perth articles*, and all other corruptions introduced since 1580. And therefore both in our written reasons against that subscription, and in our speeches at the Councell table, and to sundry Councillours in private, we dehorted them upon that reason from that subscription: which was the true cause why the Councell being convinced with that reason, made their explanatory act, declaring that they subscribed the Confession according to the meaning 1580. and as it was then profest, for removing of that doubt.

3. Albeit by the meaning of the prescriber of an oath, the swearer were tacitly bound to maintaine *Episcopacie*, *Five articles of Perth*, and such-like; yet according to the premitted considerations, he is more obliged to the reality *rei jurate*, which is now declared and found to abjure *Episcopacie*, &c. Nor to the meaning of the prescriber or his own either, being contrary to the explanation of the soveraigne Iudge competent.

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*Answer to
the fourth
reason.*

The fourth reason is Sylogistically urged thus: It cannot be denied but that oaths ministred unto us, must either be refused or else taken, according to the known minde, professed intention, and expresse command of authority urging the same. But it is notoriously known, that his Majestie, not only in his Kingdomes of *England* and *Ireland*, is a mantainer of Episcopall government, but likewise is a defender, and mindes to continue a defender thereof in his Kingdom of *Scotland*. And therefore the oath being taken, and not refused, must be sworn conforme to his Majesties known meaning. The minor is confirmed from our own Assertions.

To this it is answered first, that in contradictorie oaths, the swerer is more obliged to the true meaning of the oath, clearly exprest therein, then either to his own meaning, or any sense of the prescryver, being contrary thereunto. Especially in this case, where there is no new oath which may receive any new meaning, but the renovation of the old oath, which can admit no new destructive sense: but must bee sworn conforme to the genuine originall first meaning. 2. That oath was justly refused by us upon that ground of discrepance amongst many others; & such like, was not received by the Councell, till they declared their meaning by act *simul & semel* with their subscription. 3. We do not meddle with the Kirks of *England* or *Ireland*, but recommends to them the paterne shown in the mount: all our arguments and proceedings being for the Kirk of *Scotland*, where, from the time of her more pure reformation then of her sister Kirks, Episcopacie hath ever been abolish-

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ed, till the latter times of corruption. So that though his Majestie hath hitherto maintained Episcopacie in *Scotland*, because his Majestie wanted the means to be informed of the acts of this Kirk, yet we know that God hath so richly replenished his Royall breast, with such justice and pietie, that when his Majestie shall receive perfect information, we are confident that He will never desire any change or alteration in our ancient Kirk government and discipline. Especially now when his Majestie hath caused the maintenance thereof to be religiously sworn.

The fifth and last reason is, that we can never make it appeare, that Episcopall government, at the first time of administering the oath was abolished; the very words of that confession of Faith, immediately after the beginning of it being these: *received, beleevd, and defended by many and sundry notable Kirks and Realmes, but chiefly by the Kirk of Scotland, the Kings Majestie, and three Estates of this realme, as Gods eternall truth, and only ground of our salvation.* Whereupon is inferred that Bishops, Abbots and Priors, made up, at that time a third Estate of this realme, which gave approbation to the confession of Faith: and therefore this third Estate did not abjure Episcopacie. And albeit it had been abolished by acts of Assembly, yet it was not so by act of Parliament, but in force by many of them standing unrepealed, which are annexed to the reasons. Which being the acts of a Monarch, and his three Estates, are never repealable by any Ecclesiasticall nationall Synod.

*Answer to
the fifth
reason,*

For answer hereunto, 1. It doth appeare and is manifest by the Registers and acts of Assembly, that before

fore the subscription of the Confession at the time thereof, and thereafter: That *Abbots, Priors, and Bishops* were so clearly, evidently, and expressly condemned in this kirk, That the best wits of this age opposers of Episcopacy cannot yet require one sillabe to be added for farther assurance, and the most able maintainers thereof could not pick any quarrell to the clearnesse of the expression. 2. The clause citted in the reason, is only anent the doctrine, and not anent the discipline, which thereafter is determined and the *Hierarchie* detested: And the Discipline of the Kirk sworn unto. 3. Albeit that clause were of discipline, yet it maketh nothing for Bishops except by inference, that they are comprehended under the name of the third Estate: which cannot be so understood, for collections by way of inference or *ex consequenti*, cannot bee adduced against the expresse acts of the time: wherein the makers signifie their mindes in clear termes, & *apertissime dicendo*, leaveth no place to presume the contrare: especially in this kingdome, where these expressions of *stylus curie* are carefully observed without change: which may be seen in the same case by many Parliaments: where it is notour that no *Prelate* was present, or allowed. and yet the acts proporting to be made by his Majestie and three Estates are interpreted by the quoter as made by the *Prelats* with others. 4 Episcopacie was abolished not only by acts of Assembly, but there is no standing laws for Episcopall government, but some against the same, as shall bee evident in the answer made to the acts of Parliament, subjoynd hereto: but if their be any Acts of Parliament standing for Episcopacie,

Episcopacie, the Kings Majestie, his Commissioner, the Councell, the Collective-body of the Kingdome, hath actually renounced the same by returning to the doctrine and discipline, 1580. whereunto Episcopacie is contrare: which God-willing may also be inacted at the next Parliament, proclaimed to be holden by his Majestie in *May. 5.* The acts of the Assembly, and the book of Policie in the 1. and 10. chapter, puteth clear merches betwixt civill and Ecclesiasticall jurisdiction; making every on independent in matters properly belonging to their own judicatorie, and every one subject to the other in matters properly belonging to that other. So that as the Assembly cannot make civill laws nor repeal them, nor impeded the Parliament from making or repealing civill laws, no more can the Parliament make Ecclesiasticall laws originally, nor repeal, or hinder the lawfull Assemblies to repeal the same. For albeit acts of the Assembly are, and may be ratified in Parliament, that is, only that the civill sanction may concur with the Ecclesiasticall constitution: But will not stop the Assembly to recall their own act: which being annulled by them, the civill ratification and sanction fals *ex consequenti*. For to mantaine that the Kirk may not repeal her own acts, ratified once in Parliament, is so derogatorie to Christs prerogative and ordinance, to the liberty of the Kirk, and freedome of the Assembly, to the nature, end and, reason of all Ecclesiasticall jurisdiction, as we have more largely cleared in the Protestation 22. *September* last) that we beleeve few or none will be of that opinion. All these Five objections and many more was agitate and discussed

in the Assembly, before the act anent Episcopacie was made.

Conclusion.

And seeing the generall Assembly of the Kirk of Scotland, indicted by his Majestie now holden at *Glasgow*, which is the only Iudge competent and fit interpreter to remove and explaine all doubts, arising upon the confession of Faith, hath after long, religious and mature declaration, expounded the same, and clearly found that Episcopall government in this Kirk, amongst other corruptions, is abjured by the confession of Faith, as the same was profest within this Kingdome, hath discharged all subscription to the Covenant, subscribed and interpreted by his Majesties Commissioner, hath commanded the Covenant subscribed in *Februaire* with the application to be now subscribed according to her present determination: therefore we trust that the knowledge hereof, will be a sufficient warning to all good Christians and Patriots, that they subscribe not the one, and that they subscribe the other, according to the genuine and true meaning thereof, declared by the Kirk allenerly, and of no contrary incompatible sense, as they would eschew the crime and danger of a contradictory oath, and we would most humbly and earnestly beg of his Sacred Majestie, from the bottome of our hearts, that his Majestie would be graciously pleased to command, that the same may be so subscribed, conforme to the declared explanation of the Kirk; which would prove the greatest happineffe and joy that ever befell these disconsolated Subjects of this nation, who (though unjustly branded with many calumnies) yet never have, nor ever shal swerve from our
loyalty

loyalty due to the Lords anoynted: But would readily imbrace any occasion to imploy our lives and fortunes for his Majesties service and honour: who (we heartily pray God) may long & happily ring over us.

There is annexed to this Declaration a quotation of sundry acts of Parliament, to prove that Episcopall government was not abolished in the year 1580. whereunto albeit there is no necessity of answer, seeing the meaning of the Kirk of *Scotland* in her Confession of Faith is only to be sought from her self, and the registers of her Assemblies, and not from the Parliament, yet the same shall be specially answered in the order that they are alledged: after these two generals are offered to the Reader his consideration.

1. After the reformation of this Kingdome, the Kirk was still wrestling against all corruptions & especially against Episcopacie. But through they clearly & frequently condemned the same, yet the power of the enemies of reformation withstood them long: so that her own policy could not be obtained ratified expressly & specifye in Parliament, till the year of God 1592. which abrogateth all those preceeding acts, alledged in the contrary. 2. That acts of Parliament can no more make Ecclesiasticall offices, nor give Ecclesiasticall priviledges, nor the acts of Assembly can establish civill offices of Estate, or grant to them civill priviledges; each Iudicatorie being properly confined within their own spheres.

But before the acts of Parliament be particularly marked and cited, there be two reasons prefixed: the one taken from some acts of Parliament 1567. cap. 2. 3. 6. and cap. 68. Par. 1579. The other from the

*Answer to
the acts
of Parlia-
ment.*

*Answer to
the acts
1567.*

oath ministred to the King, at his coronation, for the act of Parliament 1567. Bearing that no Bishop nor other Prelate in this Realme, use any jurisdiction in time coming by the Bishop of Romes authority, It is evident hereby that Episcopacie is altogether condemned, as all other Prelacie was: for before that time they had no jurisdiction but from the Pope: and therefore being discharged to execute that; they are discharged by the act to execute any at all. That this is the true meaning and scope of that act is manifest: because the Kirk in the book of common order, and in the first book of discipline at that same time, acknowledgeth no other ordinarie office bearers appointed by Christ in *Ecclesia constituta*, But the *Pastor*, *Doctour*, *Elder* and *Deacon*: and in her Assemblies at that same time, was still censuring these who were called or designed *Bishops* by reason of their benefices, as is instructed by the acts printed before the book of discipline. And therefore in the act of Councell, 1560. made in the same year by these same persons, ratifying the first book of discipline, they provided only that *Bishops, Abbots, Priors, &c.* Being protestants, brook their revenews during their life-times: they sustaining Ministers in the mean time. 2. In the year 1566. which preceeds that Parliament, the Kirk of this Kingdome approved the Confession of *Helvetia*; wherein the *paritie of Ministers* is preferred as Gods ordinance warranded by his word, to *Episcopacie*, as an humane consuetude. 3. Because at that time the Queen had restored the Archbishop of *St. Andrews*; therefore the Kirk supplicated the Nobilitie of the Kingdome, against that restitution, which they condemned.

demne as the curing of the head of the beast once wounded within this land. Wherein they expressly ground themselves upon the said act of Parliament being before made in the year 1560. as a certane abrogation of the Arch-bishops authority. 4. In the 2. book of discipline chap. 11. the kirk useth the same act of parliament as an abrogation of the Papisticall Kirk, and Papisticall jurisdiction, and thereby of Episcopall jurisdiction and power. 5. The Kirk thereafter in the same chapter declared their uniformity of this meaning by urging the act of Parliament, 1567. printed amongst the black acts and renewed in the Parliament holden 1579. (which immediatly followeth the act here cited) declaring that no other Ecclesiasticall jurisdiction shall be used within this Realme, but that which is and shall bee in the reformed Kirke and flowereth therefrom: and they urge that none under the abused titles in Papistrie, of *Prelats &c.* attempt to clame the benefite of any act of Parliament, having no commission of the reformed Kirk within this Realme. Whereby our Kirk declared all *Episcopall* jurisdiction to bee *Papisticall*. Which is the true meaning of the word, his *Hierarchie* in the short confession. For their jurisdiction could flow frō none other but from the *Pope*: Seeing it flows not from the Kirk: but was abolished, and condemned by them: as is clear by the Registers of the Assembly. 6. The acts do abolish all *Papisticall* jurisdiction: And therefore all *Episcopall* jurisdiction, because *Episcopall* policy and jurisdiction is *Papisticall*: as is acknowledged by many, & specially by Doctor *Poklington* chaplane to the Bishop of *Canterburie*: who deduceth a continuall lineall succession
from

from *Peter* through the whole *Popes*, unto the present *Arch-bishop* of *Canterburie*: and by the quoter himself, who alledgeth (albeit falsly) that this Kirk retained the *Papisticall* Policie and government. 6. Where it is said in the reason; that our Kirk did not innovat any thing in that Policie which they found in the Kirk before the reformation: the same is controlled by the book of Common prayer, first book of Discipline, and acts of the Assemblies.

Anent the
sixth act
1567.

And for the 6. act 1567. and the 68. act 1579. The same doth not only not mention Bishops, but declar-eth the true Kirk to consist only of Ministers of the Gospel then living, and these who thereafter should rise; agreeing with them, in doctrine and administration of the Sacraments, and the people, as the members thereof, which directly excludeth Bishops; against whom the doctrine and practise of this Kirk, continually sounded: especially at that time. For in the government of this Kirk by weekly meeting of Ministers Elders, and reformed townes from the year 1560 to the year 1576 (except the *interim* of the pretended convention at *Leeth* 1572.) and from the year 1575. to the year 1581. The Assemblies for the most part were employed in abolishing the corruptions of *Episcopacie*, and in establishing the settled Policie: which was agreed upon, 1578. In the second book of Discipline. In the which acts of Assembly and book of Discipline is set down at large the doctrine of the Kirk of Scotland, anent that discipline, as grounded and well warranded in the word of God, and against *Episcopall* jurisdiction, as an unlawfull humane invention: So that *Episcopacie* being contrare
to

to the doctrine of the Kirk of Scotland, 1579. The *Bishops* disagreeing from the Ministers of the Evangel then living, in doctrine and in the use and administration of the Sacraments, are declared by the said acts to be no members of this Kirk, and the same acts cited for them do sufficiently evince that *Episcopacie* was still condemned, notwithstanding all opposition made in the contrare.

As for the Kings oath, the same containeth no mention of Bishops, but by the contrary, the King is obliged thereby to maintain the true Religion of Iesus Christ, the preaching of his holy word, and right administration of the Sacraments, then received and preached within this Realme. And seeing it is cleared by the preceeding relation, that Bishops were never allowed, but oppugned by the Kirk of *Scotland*, that oath doth not allow, but exclude *Episcopacie* which is also more prespicuous in the short confession 1580. and 1581. when the Kirk set down her constant policie in Doctrine and Discipline grounded upon the word of God, wherein the *Hierarchie* is abjured as contrary thereto; and craved an oath from his Majestie for maintenance thereof, which now also our gracious Sovereigne in the judgement of the Kirk of *Scotland* is obliged to maintain, as being founded upon the word of God, and exclusive of *Episcopacie* as repugnant thereto. The acts of Parliament thereafter particularly cited are these mentioned in order.

The 24. act 1567. ratifying all civill privileges formerly granted to the spirituall estate, and the 35. act 1571. Ratifying all acts made anent the freedome,
and

*Anent the
Kings oath.*

and libertie of the true Kirk: the same cannot be extended to the establishing of *Episcopacie* because it is not mentioned in these acts, but by the contrary was abolished by the acts of the Assembly and Parliament, before mentioned, so that the priviledges therein mentioned, are granted to such Kirk-men as then were received by the Kirk and Kingdome: and the freedome of the Kirk must bee interpret by her own judgement: who thought ever *Episcopall* jurisdiction an heave bondage: and yet those priviledges can inferre no spirituall jurisdiction, but only civill priviledges; some immunities and exemptions granted for the goods and persons of Kirk-men as is cleare, 1. act. *James* 1. Par. 1. and 26, act. Par. 2. *James* 1. and 4. act Par. 3. *James* 2. with many others.

It is here to be observed, that the carefull evolver of these acts of Parliament, hath omitted to cite the 7. act. 1. Parliament of King *James* 6. bearing the examination and admision of Ministers, to be only in the power of the Kirk, then openly and publickly profess; and presentations to bee made to *Superintendents*, or others having commission from the Kirk, & appealleth from them, to the *Superintendents* and ministers of the Province, and appealleth from these to the generall Assembly: in all which gradations no mention of Bishops; but they in effect excluded by that contrare distinction of the Kirk then openly profess: because they were discharged by the fore-said second act 1 5 6 7. and *Superintendents* were then permitted like temporarie *Evangelists* for the present necessitie, declared in the first book of discipline
ad eccle-

ad ecclesiam constituendam ; but was abrogate from 1575. that the constant Policie of *Ecclesia constituta* began to be estabished.

As for the acts of Parliament, 1572. and 1573. It is known by the records of the time, that the Regent then laboured hard to bring in *Arch-bishops*, and *Bishops*, who were not dead, but standing *de facto* provided to the power of these titulars of benefices, to fortifie his own designs, and counter-balance the authoritie of Ministers, pressing the puritie of reformation: and so cannot be honourably alleadged for the *Bishops* at this time: and yet it was done not by authoritie, but by warrand of some Ministers of his own party conveened at *Leeth*: and was only done for an *interim*, and protested against by the next Assembly; and yet neverthelesse by the saids acts of Parliament, the *Arch-bishops*, *Bishops*, *Superintendents*, or Commissioners of Dyoces or Provinces, are joyned together (which is wrongously omitted in the quottation) to show that no *Arch-bishop* or *Bishop*, *quales* had any power, but only being *de facto* standing provided in the title, they were capable of a Commisfion from the Kirk, which sometimes they obtained, and in the book of Assembly are named such as are called *Bishops*, and were under the Discipline of the Kirk: and in the same *Superintendents* possessours and titulars of prelacies, as well as *Arch-bishops* and *Bishops*, are ordained to be called and conveened for that effect before the generall Assembly of the Kirk: And yet none can say, That the offices of *Abbots Pryors*, &c. were then retained; howbeit the benefices were not extinct; and few will grant,

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that

that when the *Arch-bishops* and *Bishops* office was in vigour, they thought themselves subject to the generall Assembly: as they are by the said act which is also fraudfully omitted in the quotation.

*Anent the
acts 1578.
and 1579.*

As for the acts of Parliament 1578. and 1579. It is answered that the Kirk in this meane time, from the year 1575. was busied in abrogating *Episcopacie*, and establishing the constant policie, as is clear by the printed acts of Assembly before the book of Discipline, and unprinted acts of Parliament: The Kirk by her Commissioners daily reasoning and agreeing with the Kings Majestie and his Commissioners upon these heads of policie, whereupon the Parliament, by the said 69. act 1579. declareth there is none other jurisdiction ecclesiasticall to bee acknowledged, but that which is in this reformed Kirk, and floweth there-from, which extinguisheth *Episcopacie*; because it doeth not flow from this reformed Kirk: neither can produce its chartor from her: for besides that it was abolished by the foresaids acts 1567. It was condemned also in the book of Policie, and in the generall Assembly holden at *Dundie*, 1580. and their whole estate spirituall, and temporall condemned in the Assembly at *Glasgow* 1581. and so acknowledged by his Majesties Commissioner in the Assembly at *Edinburgh* 1581. so that by this act of Parliam. 1579. The *Bishops* are so abolished, that unlesse they be established by lawfull Assemblies of the Kirk, no act of Parliament since sen can conduce for their establishment: seeing this act with the other acts for their abolition, standeth yet unrepealed. And farther for the act of Parliament 1578. if

1578. if the same contribute any thing, for *Episcopacy*, it must either be because *Bishops* are there mentioned, or for the power thereby conferred upon them: But both these are weak grounds. The first because there is no *Bishop* there named, but such as stood provided *de facto* on life: which is an designation of the benefice, which was not then extinct; and not of the office which was extinct. The power conferred upon them by the said act can give no strength to the argument: because there is no jurisdiction granted thereby to them, but only power to visit Hospitals: which the Parliam. might have granted to any person: but was most proper to these idle titulars of benefices, who might best attend the same, or imploy means for their reparation. And this charge is likewise communicate by act of Parliament to all Chancellours of this Kingdome for the time being: And as to the 71. act 1579. we repeat the former answers that *Superintendents* and *Commissioners* are there joyned with the *Bishops*; to show that no power is granted unto them as *Bishops*, but *Commissioners* from the Kirk, and the name is still used, because the benefice was not extinct, but they were known by that appellation.

The acts of Parliament 1581. were better acknowledged for Assemblies then *Bishops*, for it is an expresse ratification of the former acts of abolition of *Bishops*, & abrogatiō of all acts or constitutions, cannons civil or municipall contrare to the Religion then presently profest within this kingdom: which is not only clearly exprest in the words: but if they were doubtfull (as they are not) were manifest for these reasons. First, the Assembly holden at *Edinburgh*, about the

*Asent the
act 1581.*

very same day, honoured with the presence of his Majesties Commissioner, is acknowledged by him to have condemned *Episcopacie* whereunto temporall jurisdiction is annexed: and the Assembly declaring that function to be against the word of God and acts of the Kirk, thereupon did supplicat the Parliament, that they should make no acts repugnant to the word of God, especially concerning *Bishops*. Secondly, the King and Estates by that act ratifieth all acts made for maintinance of the libertie of the true Kirk of God, presently professed within this Realme and puritie therof: which present profession can be no other, then that which was received by the Kirk and Assembly then presently sitting so near the Parliament at *Edinburgh*, which had approven the *Presbyteriall government*, condemned the *Episcopall*, and ratified the *short confession simul & semel*, wherein the Estates had sworn to the *Presbyteriall* and abjured *Episcopall* government. Thirdly, this ratification of the former acts of Parliament must be interpreted, according to the words thereof, to be in all points, which are not prejudiciall to that purity of Religion and liberty of the Kirk presently professed within this Realme. And at this time the whole Estates had subscribed the short Confession, and so sworn to the discipline, set down in the book of discipline, which by this act is ratified in the first place, before any speciall enumeration of particular acts. Fourthly, it hath been formerly shovne that in the preceeding acts of Parliament where *Arch-bishops* or *Bishops* are named, the same hath been by reason of their benefice, and not their office: which the Parliament could not give them being

ing abrogate by Assembly: or having intended really to give them any place, would not have joyned *Superintendents* and other Commissioners with them: or otherwise they are named as having equall power with the *Superintendents* and other Commissioners, as in the convention at Leeth; and conforme to the time, especially 1572. and 1573. Wherein some titulars or possessors of prelacies, so called in the 46. act of the Parliament 1572. had a commission from the Kirk like unto *Superintendents*, which was not fully abrogate untill 1580. But all this was without prejudice of the Kirk her libertie, to recall her own commission from these who were provided to prelacies; and to condemne their *Episcopall* offices, whereunto they ascribed the power; which they really had by their commission: as the Kirk did upon good reasons abrogate the office of *Superintendents* without impugning of the saids acts of Parliament (which were never rescinded till 1592) whereby it is evident, that though this act of Parliament 1581. ratifie the former acts wherein *Arch-bishops*, *Bishops*, *Superintendents*, or other Commissioners of the Kirk are named, yet seeing the saids acts are *alternative* conceived, the vigour and efficacie thereof subsists by this ratification in the last alternative; viz. Commissioners from the Kirk, Dyoces or Province: seeing the remanent were formerly condemned: especially by this Assembly of Edinburgh holden the time of the Parliament. Fifthly, this ratification 1581. of the former acts made in favours of the true Religion repeating only the titles of these acts and not themselves, cannot import any corroboration of the offices under the

the ~~things~~ mentioned in these former acts: because this ratification, can only be extended to the matter, and not to the designation of the persons, exprest in the former acts. which is only personall and circumstantiall as for instance, this act 1581. could not confer any power or imployment upon *Superintendents*: because that office was then abrogate; and out of the Kirk. But the true meaning of the act is; that ratifying the substance and matter in favours of the Kirk and Religion, it doth intrust the execution to these whom the Kirk shall lawfully authorize with commission for that end, which is more manifest in the 114. act Par. 12. 1592. wherein this act 1581. and all the acts therein contained are ratified *quo ad materiam*: and yet all *Arch-bishops* and *Commissioners* are discharged and all Ecclesiasticall matters subjected to Presbyteries. Sixthly, it cannot probably agree with reason that by this ratification the Parliament, above their power would indevoure to establish in the Kirk any function so recently condemned of before by the Assemblies at *Dundie* 1580. and at *Glasgow* and *Edinburgh*, 1581, immediarly before this Parliament.

Anent the
act 1584.
and the
third Estat
of Parliam
ent.

The acts of Parliament 1584. are of severall natures. But they were protested against, by the Ministers of *Edinburgh* in the name of the Kirk of *Scotland*, at the mercate crosse of *Edinburgh*, when they were proclaimed and as they were made in that time which was called the houre of darknesse in this Kirk, tirranized by the Earle of *Arran*, so are they expressly repealed 1592. cap. 114.

Anent the act of Parliament 1584. For the three Estates, and so furth. To answer: *Primo*, that the Kirk from

from the year of God 1580. 1581, that the Confession was subscribed, unto the year 1597. all this time was by continuall acts condemning the office of *Bishops*, their spirituall, their temporall, their whole estate, their confusion of civill and Ecclesiasticall jurisdiction, and craving in Councell and Parliament the dissolution of Prelacies and the erection of Presbyteries.

2. *De facto* the former *Bishops* being continually proccessed and sentenced by the Kirk, these who presumed to usurp that office condemned by the Kirk, namely Mr. *Patrick Adamson*, and Mr. *Robert Mountgomrie* in the year 1582. 1584. 1586. they were deprived and excommunicate by this Kirk before the Parliament, 1587.

3. *De facto* no Ecclesiasticall *Bishop* voted in Parliament but *Mountgomrie* and *Adamson*, who were taken in by the Earle of *Arran*, unto the Parliament holden in *May* at *Edinburgh* 1584. Wherein the three Estates ratifieth the honour and dignitie of the three Estates, so that as these two *Bishops* cannot be called the third Estate which doth ratifie, so the Estate of *Bishops*, cannot be called the third Estate, which is ratified: especially seeing be that same Parliament in the 132. act. *Bishops* of the Diocie are but nominate the Kings Commissioners. And in the last act of that same Parliament, printed of old in black letter, there is set down the Kings Commission granted to the said pretended *Bishop Adamson*.

4. From 1581, till the year 1597. the quatter doeth not cite nor can cite any act of Parliament expressly nominating any ecclesiasticall *Bishop* but that in the

1584. wherein he is named as one amongst other the Kings Commissioners, whereof some were meere secular persons.

5. It is clear by the first act of the ninth Parliament 1584. and the eleventh act of the 10. Parliament 1585. that *Bishopricks, Prelacies, Abbacies, Pryories, Nunries*, were then thought to bee alike in the Kings hands, were granted to whatsoever persons being his subjects, albeit they brooked no office in the Kirk: so that some of these lord-ships and Barronies were erected before 1587. and excluded from the annexation.

6. As the Kirk had ever been craving the dissolution of Prelacies, and condemning the temporall as well as the spirituall Estate of *Bishops*, by their act of the Assembly 1581. and by their censure of the Presbyterie of *Striveling* for admitting *Montgomrie* to the temporality of the Bishoprick of *Glasgow*, and censure of *Mountgomrie* for aspyring thereto, contrare to the word of God and acts of the Kirk in the Assembly 1587. *June*. So in the 11. Parl. of King *James* the sixt 29. of *July* 1587. 29. act. The three Estates of Parliament annexeth to the crown, all Lordships and Barronies pertaining to whatsoever, *Archbishops*, or *Bishops*, *Abbots*, *Priors*, *Nunnes*, and *Munkes*: reserving alwayes to *Archbishops*, *Bishops*, *Abbots*, *Priors*, *Pryoresses*, *commendators*, and others possessours of great Benefices of the estate of *Prelates*, and which before had or hath vote in Parliament, the principall Castles and Fortalices: whereby it is clear: that the *stylus curie* naming three Estates did no wayes include Ministers being *Bishops*: seeing no ecclesiasticall

Bishops

Bishops, sate in that Parliament, nor could sit: because the only two *Bishops* of the time *Adamson* and *Montgomery*, were before depryved and excommunicat, and certainly they neither would nor could have sitten as an Estate in Parliament to abrogate their own estate and lordships, and temporall land, where-upon that act acknowledgeth any right they had, did depend. 2. It is clear that *Arch-bishops* or *Bishops*, *Abbots*, *Priors*, &c. all alike voted in Parliament of old, not by reason of their ecclesiasticall office, but by reason of their great benefices and lordships: which here is said to have had vote in Parliament: for that cannot be relative to the persons, as unto *Pryeres*: but unto the benefices. So that Ministers voted not as Ministers in name of the Kirk, but as possessours of these great benefices or Barronies: and others who were not ecclesiasticall persons being titulars, and possessours of these great benefices both *communi stylo* were called, *Bishops*, *Abbots*, &c. by vertue of the benefice without any office, in the rolls of Parliament, and in the act of Assembly 1587. The *Bishoprick* of *Cathnes* is said to vaikie by decease of *Robert Earle of March*, the Kings Uncle: And the Assembly in their letter to the King declareth, to be against the word of God and acts of the Kirk, to present and admit any Minister to that *Bishoprick*, as also some of these titulars, and possessours of the benefices, albeit they had no ecclesiasticall office, did some times ryde and vote in Parliament. 3. It is clear that the three Estats by taking away from *Arch-bishops*, and *Bishops*, their lordships Barronies, and temporall lands, they took away their vote in parliament,

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which

which doth not subsist, but in and by the benefice, and therefore ecclesiasticall persons separat to the Gospel for want of their great benefices, had no vote in Parliament, till the 1597. (albeit all the interveened acts are made by the three Estates,) wherein the Kings Majestie restoreth Ministers to the titles and dignities of Prelacies, which sheweth that before they were disposed to others then Ministers; and provideth that Ministers presented to these titles and dignities, and to the benefice of *Bishopricks*, shall have vote in Parliament: which sheweth that the benefice and not the office giveth right to vote in Parliament, like as the very act of Parliament 1606. acknowledgeth, that by the act of annexation of the temporality of benefice to the Crown 1587. the estate of *Bishops* were indirectly abolished: and therefore they behoved to rescind the act of annexation anent the benefice, and restore them to these titles, and dignities, before Ministers could vote in Parliament, but these acts also are hereafter answered. 7. But as for 130. act 1584. no *Bishop* is therein mentioned: and yet it is adduced for *Bishops*, because the three Estates are therein named, under one of which the *Prelate* claimeth to bee comprehended, but why more he then *Abots*, and *Priors* formerly abolished, as well as *Episcopacie*? why more by that act, then many former made when *Bishops* neither rode, sate, nor voted in Parliament: but were expugned out of this Kirk, and yet the acts were all made by the three Estates, which albeit it needeth none other demonstration then that it is *stylus curiae*, carefully observed in this Kingdome: Yet the truth is, that the Nobilitie, Barrons, and Burrows
were

were the three Estates of this Kingdome, many hundred years after Christianity, before any Bishops were in this Kindome, as is observed by *Buchanan* and *Boetius*, and acknowledged by *Lefly* in his *Chronicles*: and after the Bishops were abrogat expressly the three Estates of Parliament did continue, and make all acts of Parliament. Yea, after the 1592. where Bishops were discharged, for if Bishops were an Estate, there behoved to be foure Estates of Parliament; as there are so many named in the Commission granted by King *JAMES*, and King *CHARLES*, viz. The Clergie, Nobilitie, Barrons, and Borrows, and that as ecclesiasticall persons separate to the Gospel, since the reformation, were never warranted to voice in Parliament, while 1597. So on the other part, the Barrons are, and have been, as an Estate of parliament in uncontravered possession of voting in Parliament, conforme to the 101. act Parl. 7. King *JAMES*: the first, renewed again in the Parliament 1585. and 1587. act 113. wherein precepts of the Chancelarie are ordained to bee directed to the Barrons as unto an Estate of Parliament: even as they shall be direct unto other Estates, to wit, The Nobilitie and Borrows: which in that act is mentioned. So in this same act of Parliament (which in the narrative relateth the bygone great decay of the ecclesiasticall Estate) There are exprest three compleat Estates in Parliament, The Nobilitie, Barrons, and Borrows. And as in law the three Estates are intire without Bishops or Ministers voters in Parliament, So also, it is most expedient, and necessar for the libertie of the Kirk, honour of the King, and peace of this king-

dome: That no Ministers vote in Parliament, as is more clearly and largely proved in the reasons of the Protestation, given into Parliament against the same, 1606. And in the act of this Assembly against civill places of Kirk-men.

.As for the 131. act 1584. no *Bishop* is therein mentioned to get any benefite thereby, and far lesse can the same reach to the prejudice of the late Assembly, which was indicted by his Majestie, and is an ordinarie judicatorie allowed by the laws of God and man: like as it is answered in our protestation, more largely.

And for the 132. and 133. act of the said Parliament 1584. there is no Ecclesiasticall priviledge or authority thereby granted to *Bishops* as *Bishops*; but only a power of cognition: wherein the Parliament hath joyned others the Kings Commissioners with them, only as the Kings Commissioners: and granted the same unto seculare persons with them: but the King could never provide them to the office and jurisdiction of *Bishops*, which was abolished by many acts of Parliament and Assemblies before written.

Anent the
act 1587.

The 23. act 1587. worketh directly against *Bishops*: being a generall ratification of all acts formerly made anent the religion presently profest in this kingdome: which must include the acts abolishing *Episcopacie*; but especialy, seeing in the same Parliament 1587. temporall livings are taken from the *Bishops*, as well as the office was 1567. And the same act undoubtedly was granted in the same meaning, wherein the Kirk did crave it; who that same year had often condemned *Episcopall* government, as contraire to Gods word, and the libertie of the Kirk, and approved *Presbyteriall*

viall government, as flowing from the pure fountaine of Gods word.

It faileth in here to be remarked that the act 114. anno 1592. is never alleadged: and that because it not only revocks in particular the foresaid acts 1584. but in generall all other acts contrary to that discipline then established, and in particulare, the Assemblies, Presbyteries and Synods, with the discipline and jurisdiction of this Kirk, are ratified and established, as most just and Godly, not withstanding whatsoever statutes, acts, cannons, civill or municipall laws made in the contrare: whereunto his Majesties prerogative is declared to be no wayes prejudiciall. Further the said act abrogates all acts granting commission to *Bishops*, and other Iudges constitute in Ecclesiasticall causes; and ordaineth presentation to benefices to be direct to Presbyteries, with power to give collation thereupon: And so containeth a ratification of the heads of Policie set down in the second book of discipline. Which act is renewed act 60. anno 1593. and the power of Presbyteries acknowledged 1594. act 129. and was never rescinded expressly *in totum*; but only in part by the ratification of the act of *Glasgow*. Which now cannot be respected; but falleth *ex consequenti*: seeing that Assembly of *Glasgow* is now upon just and infallable reasons declared to have been null *ab initio*: and so this act of Parliament, wisely omitted by the collector to the Commissioners grace might serve alone, without our preceeding speciall answers, for clearing the whole preceeding acts.

The 23. act 1597. granteth the priviledge of a voice in Parliament to the whole Kirk; and under that name
to

Anent the
act 1592.

Anent the
act 1597.

to Abbots, or other persons provided to prelacies, as well as *Bishops*: even as in time of papistrise. So as *Sr. Robert Spottiswood*, Abbot of *New-abbay* road thereafter in Parliament: which was both unwarrantable and unusuall. Which doth nothing contribute for the *Bishops* advantage, because albeit the benefice was not extinct, yet neither the King nor the Parliament might give them the office so oft condemned by this Kirk: which is also acknowledged in the same act; because after the granting to them of the said voice, the Parliament remiteth them to the King and the Assembly, concerning their office in their spirituall policie and government in the Kirk. 2. The said act beareth expressly to be but prejudice of the jurisdiction & discipline of the Kirk, established by acts of Parliament made in any time preceeding, and permitted by the said acts to all provinciall and generall Assemblies, and other whatsoever Presbyteries and Sessions of the Kirk: and so the same cannot derogate from the former acts ratifying the present discipline of the Kirk, especially the said act 1592. nor yet from the acts of the Assembly abjuring *Episcopacie*. 3. The priviledge is granted upon condition they be actuall Pastors and Ministers. And so we refer to the world and themselves, if with good consciences they may claime the benefice of that act. 4. That priviledge was obtruded, and pretended to be introduced in favours of the Kirk: who may and hath renounced the same, as being incompatible with their spirituall function: as the act of the Assembly at more length beareth, upon undeniable reasons. 5. When voice in Parliament was first plausible obtruded upon the Kirk, it
was

was neither proponed nor tolerated in other tearms then that only such should have vote in Parliament, as had commission from the Kirk. So that not as *Bishops*, but as Ministers, Commissioners from the Kirk, they had vote in Parliament. Like as the Assembly at *Montrose*, 1600. being so hardly prest by authority, that they could not get it altogether refused (albeit in their conference at *Halyrud-house*, 1599. they proponed unanswerable reasons against this, and all other civill places of Pastours) set down cautions, binding the Ministers voters in parliament, to bee insert in the act of Parliament subsequent: which was omitted notwithstanding of the *Bishops* oath and dutie in the contrare; for the breach whereof they are now most justly censured. 6. The ratificatorie acts of the priviledges of the Kirk and Discipline thereof then profest, are not thereby abrogat, but notwithstanding thereof must stand in force, because it is ever understood, and frequently provyded in Parliament, that all acts thereof are made *salvo jure cuiuslibet*; farre more *salvo jure ecclesia & sponsa Christi*, when she is robbed of her right without audience: especially seeing her right, is usually ratified in the first act of every Parliament. 7 Albeit it were granted, that by this Act of Parliament, or any whatsoever the *Prelates* had voice in Parliament, yet that doth not exeime them from Ecclesiastick censure, nor foresault the Kirks right, whereby she may condemne them for their transgressions: as now this Assembly most justly hath done, for by their own caveats, whosoever is ecclesiastically censured by Presbyteries and provinciall Assemblies,

blies, *ipso facto* loseth his benefice and vote in Parliament. 8. Further, the *Bishops* in their declinatour professe they never had commission from this Kirk to voice for her in Parliament, according to the cautions set down in the Assembly at *Montrose*: for the which cautions that Assembly was never challenged, as trinching upon the third Estate.

Anent the
act 1606.

The act of parliament 1606. is coincident with the nature of the preceeding acts, for albeit the King and parliament might have reponed them to their rents, teends, lands, &c. which were annexed to the Crown; yea, might have disposed to them any part of the patrimonie of the Crown, If lordly titles and civill places in the persons of pastours separat to the Gospel, had been lawfull, yet could not give them the spirituall office, and jurisdiction spirituall, which was abolished and abjured by many preceeding acts of Assembly and parliament forecited. *Et quod illud tantum agebatur*, is evident by the whole straine of the Act, reponing them, for remeed of their contempt and povertie to their dignities, privileges, livings, rents, lands, and teinds: and this alwayes limited, as was competent to them, since the reformation of Religion in the reformed Kirk: From which time their office and jurisdiction spirituall was alwayes extinct. Which is evidently acknowledged in the act of Parliament 1592. and expressly in the act of parliament 1597. granting voice in parliament to Ministers. Which albeit it was the first step to *Episcopacie*, yet the parliament thereby hath remitted the office of Bishops in their spirituall policie and government (as not pertaining to their
civill

civill place and jurisdiction) to the King and the generall Assembly of Ministers, as properly belonging to them, but prejudice alwayes of the jurisdiction and discipline of the Kirk, permitted by many acts of Parliament, (whereof that 1592. forecited is one) to generall provinciall Assemblies, Presbyteries and Sessions of the Kirk, which were never prejudged neither by the act 1606. nor by the act 1609. albeit corruption was then fast advancing; till the year 1612 at which time first, and never before, the King and Estates had taken the advice of the pretended Assembly at *Glasgow*, anent their office and spirituall jurisdiction formerly remitted to them: as is cleare in the act of Parliament 1612. relative to that remit in the Parliament 1597. which for that cause is also omitted by the quoter.

Likeas also the act of Parliament 1609. restoreth them only to temporall jurisdiction, and priviledges, lawfully pertaining to them and flowing from his Majestie, as any other ordinarie jurisdiction doth: with reservation of the Kings supremacie and prerogative therein: which can no wayes comprehend their Ecclesiasticall office, because the same is not a temporall jurisdiction, neither did lawfully pertain to them, but by the law of God, and acts of this Kirk after reformation: and by the act 1592. was abrogat and taken from them: and the Ecclesiasticall power established in Presbyteries. So that if it be an Ecclesiasticall office, it cannot flow from the King, who cannot make a Minister, Doctor, Elder or Deacon in the Kirk; albeit he may present a Minister made by the KING of Kings to the Kirk: neither can the Par-

*Anent
the act
1609.*

liament institute originally any Ecclesiasticall office in the Kirk, as is before said. Further the intended scope of that act is only the restitution of Commissariats and temporall jurisdiction flowing from his Majestie: as is clear by the act it self, bearing that they shall brook all priviledges and jurisdictions granted to them by his Majestie, and redintegrates them to their former authority and jurisdiction, lawfully pertaining to them, alwayes flowing from his Majestie (from whom only temporall jurisdiction doth flow) which is only the jurisdiction of Commissioners in temporall causes, and no wayes any spirituall jurisdiction competent *ratione officii*: which by Gods word and the laws of the Kingdome was abjured in them, and established in Assemblies Presbyteries, &c. as is many times before repeated. But to convince them further it is notor that both 1606, and 1609. they roade in Parliament, & by their own voices and the iniquity of the time, made the said acts without inserting the cautions made at *Montrose*, without any commission from the Kirk, contraire to the said cautions and their own oath given for observance thereof, against which the Kirk of Scotland did protest solemnly, clearing unanswerably, not only the unlawfulnessse of their Ecclesiastick *Episcopall* function; but also of the civill places in persons of Pastors, from Gods word, our confession of Faith, 1580. acts of this Kirk and Kingdome; but this protestation being rejected by them was printed to the view of the world.

*Anent
the act
1617.*

And as for the act of Parliameat 1617. it cannot set down consecration to the office, without a preceeding

ceeding act of the Kirk: which is not aleadged: but by the contraire, the Kirk, had before condemned that office, and did particularly protest against that act of Parliament. Moreover this act is builded upon the supposed ground of *Glasgow* Assembly 1610. which for infallable reasons is now annulled: and so not only this act 1617. but all after acts, ratifying the same, fall *ex consequenti*; both by the light of reason, law and practise of this Kingdome. For when the principall act or right ratified doth fall, the subsequent ratification falleth *eo ipso*: especially in this case, when civill laws in Ecclesiasticall matters, cannot be made originally, nor subsist after the abolition of the Ecclesiasticall constitutions, which they ordaine under civill sanction to be obeyed: and yet being once annulled they cannot be obeyed. And further even that corrupt Assembly of *Glasgow* 1610. which is now declared to have been null *ab initio*, did never restore the office of a diocesian Bishop before condemned in this Kirk; but did too far enlarge and extend the power of these who were provided to the benefice of *Bishops*; and yet alwayes under cautions and limitations sworn unto: which they never observed, and upon condition of their subjection for censure to yearly generall Assemblies: which they have not kepted, but impeded, and so they ought not to clame the benefice of these acts of Parliament concluded by their own voyces, and protested against by the Kirk of *Scotland* and violated by themselves.

And last, for answer to all acts of Parliament whatsoever, let the Christian Reader consider, if, as the Assembly lately convened by his Majesties indicti-

Conclu-
sion.

on in the name of Iesus Christ, should judge (and hath proceeded) by the word of God alone; and not by acts of Parliament: so we are oblidged by our oath made to God, to returne to the doctrine and discipline of this Kirk 1580. and renounce all subsequent acts contrary thereunto, and prejudiciall to the puritie of reformation and the Kirk, in whose favours any pretended priviledges is granted, and that out of experience of reall prejudice, and the pungent sins of our oath and danger of perjurie; under which this Kingdome lieth: for the which we ardently deprecate Gods wrath, & beg mercy to every one of us who are guilty; and must still continue our earnest and humble supplications to his Majestie for redresse: as we shall do our petitions to God, for preserving the sacred person of our dread Sovereigne, and perpetuating his reigne and his Royall posterity over this land so long as the world indureth.

*Revised according to the ordinance of the generall
Assembly, by me M^r. A. Ihonston Clerk thereto:
Edinb. 14. of
Feb. 1639.*

F I N I S.

per me s^r per me s^r per me s^r per me s^r

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Hamilton, James